DIRECT INVESTIGATION REPORT

MECHANISM FOR MONITORING PRIVATE RESIDENTIAL CARE HOMES FOR THE ELDERLY

March 2012

Office of The Ombudsman

Hong Kong

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1

INTRODUCTION

BACKGROUND

1.1 The population of Hong Kong is rapidly ageing. At present, 13% (over 930,000) of our population are aged 65 or above. It is projected that the proportion of the elderly will rise to 18.7% in 2021, and reach 25.8% in 2031. The provision of adequate care services for the elderly is thus of increasing importance. In particular, the standards of residential facilities are of utmost concern to those who cannot live with their families for personal, social, health or other reasons.

1.2 The Director of Social Welfare ("DSW") is the licensing authority for Residential Care Homes for the Elderly ("RCHEs"), responsible for regulating their operation under the Residential Care Homes (Elderly Persons) Ordinance, Cap. 459.

1.3 Over the years, there have been complaints and media reports about ill treatment of residents by staff of RCHEs, especially those privately run, which provide about 73% of RCHE places in Hong Kong. The manpower level and quality of care in most private homes are below par compared to RCHEs run with public subsidies. Public concerns over the effectiveness of the Social Welfare Department ("SWD")'s monitoring of private RCHEs are thus justifiable.

1.4 The Ombudsman, therefore, declared to DSW on 2 June 2011 his decision to initiate a direct investigation into the Department's mechanism for monitoring private RCHEs, pursuant to section 7(1)(a)(ii) of The Ombudsman Ordinance, Cap. 397.

PURPOSE AND AMBIT

1.5 This direct investigation examines:

(1) the mechanism for monitoring the standard and operation of private RCHEs;

(2) the means for facilitating public access to information relating to private RCHEs; and

(3) any areas for improvement.

INVESTIGATION PROCESS

1.6 We have studied records, statistics and case files provided by SWD, as well as related media reports. We have also obtained views from a union of RCHE workers.

1.7 On 1 December 2011, we sent a draft investigation report to SWD. Taking into account SWD's comments, we issued this final report on 23 March 2012.

2

BACKGROUND

LEGISLATIVE REGULATORY FRAMEWORK

2.1 The Residential Care Homes (Elderly Persons) Ordinance, Cap. 459 ("the Ordinance") came into effect in April 1995, and full operation in June 1996. An RCHE is defined in the Ordinance as "any premises at which more than 5 persons who have attained the age of 60 years are habitually received for the purposes of care while resident therein". The Ordinance provides for the regulation of RCHEs through a licensing system administered by DSW. At the working level, the Licensing Office of RCHEs ("LORCHE") was set up under SWD in April 1995 to enforce the legislation.

2.2 All RCHEs, except those controlled by Government or the Hong Kong Housing Authority, must be licensed by DSW, via application to LORCHE. To be eligible for licensing, an RCHE must comply with the requirements of the Ordinance and its sub-legislations and the Code of Practice issued by DSW under section 22(1) of the Ordinance. The latest edition of the Code was issued in October 2005[1]. The requirements cover building structural and fire safety, sanitation, minimum manpower, minimum floor space for each resident, as well as procedures and standards for various aspects of the operation and management of RCHEs.

2.3 LORCHE inspectors conduct inspections to ensure RCHEs' compliance with the requirements, additional licensing conditions imposed on individual homes, and guidelines or directives which DSW may issue to RCHEs from time to time. So far, LORCHE has issued about 50 circular letters to RCHEs, providing guidelines on various aspects of service.

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[1] *The Code of Practice was first issued in 1986, and revised in 1988, for voluntary compliance by RCHEs, before the Ordinance was enacted. It was further revised in 1995, 1999 and 2005.*

DIFFERENT TYPES OF RCHES

2.4 RCHEs are classified according to the level of care and assistance required by their residents in their daily life. There are three types of RCHEs, which have different staffing requirements; and some homes may provide more than one type of places:

(1) self-care hostel for the elderly;
(2) home for the aged; and
(3) care and attention home.

Figure 1. Types of Residential Care Homes

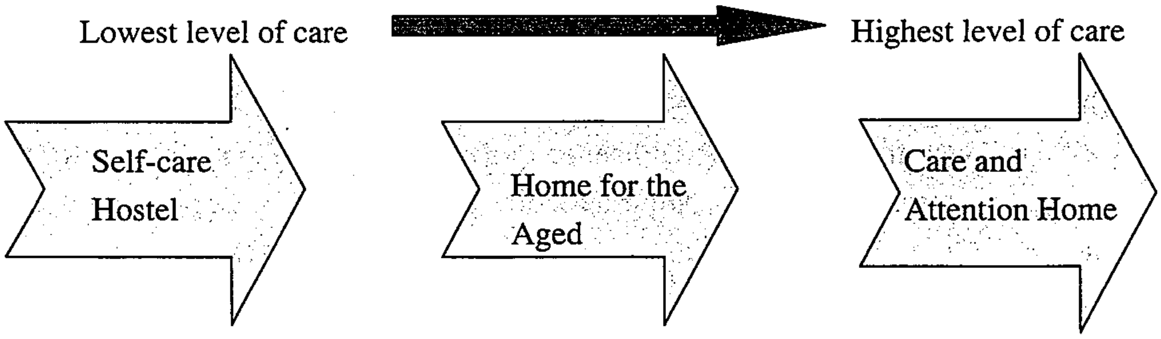

Table 1. Number of RCHE Places (as at 30 November 2011)

	Subsidised Places		Non-subsidised Places		
	Subvented/ Self-financing/ Contract homes	Private homes (under Enhanced Bought Place Scheme)[2]	Self-financing/ Contract homes	Private homes	**Total**
Self-care Hostels	24	/	15	/	39
Homes for the Aged	293	/	1,146	/	1,439
Care and Attention Homes	15,028	7,130	3,076	45,476	70,710
Total	**15,345 (21%)**	**7,130 (10%)**	**4,237 (6%)**	**45,476 (63%)**	**72,188**

[2] *SWD introduced a Bought Place Scheme ("BPS") in 1989 to buy places from private RCHEs. In July 1998, SWD introduced the Enhanced BPS, which required a higher level of services than BPS. All BPS places were replaced by EBPS places by 2003.*

FEATURES OF PRIVATE RCHES

2.5 As at 30 November 2011, there were 579 private RCHEs, providing a total of 52,606 (i.e. 45,476 + 7,130) places, or 73% of all elderly home places in Hong Kong. In recent years, the average enrolment rate ranged from over 60% to about 74%.

2.6 As at 30 November 2011, among the private homes, 137 provided 7,130 places under the Enhanced Bought Place Scheme ("EBPS"). Applicants had to wait for seven months for an EBPS place. A home with EBPS places is required under its agreement with SWD to fulfill space and staffing requirements of the Scheme for all its places, including those not subsidised under the Scheme. The EBPS standards as compared with the minimum licensing requirements for RCHEs under the Ordinance are shown in **Table 2** below.

Table 2. Comparison of Space and Staffing Requirements between EBPS Homes and Statutory Minimum Requirements for RCHEs

	EBPS Category EA1*	**EBPS Category EA2#**	**Statutory Minimum Requirements for Care and Attention Home**
Per Capita Net Floor Area	$9.5m^2$	$8m^2$	$6.5m^2$
Staffing requirement with reference to a 40-place care and attention home on the basis of 8 working hours per staff member per day			A minimum of two shifts of workers. Number of working hours of each staff member subject to employer-employee agreement.
Home Manager	1	1	1
Registered/ Enrolled Nurse	2	/	(unless a health worker is present) 1 for every 60 residents or part thereof (7a.m. – 6p.m.)
Health Worker	2	4	(unless a nurse is present) 1 for every 30 residents or part thereof (7a.m. – 6p.m.)
Care Worker	8	8	a) 1 for every 20 residents or part thereof (7a.m. – 3p.m.) b) 1 for every 40 residents or part thereof (3p.m. – 10p.m.) c) 1 for every 60 residents or part thereof (10p.m. – 7a.m.)
Ancillary Worker	8	6	1 for every 40 residents or part thereof (7a.m. – 6p.m.)
Total	21	19	

* *Government monthly subsidies per place in 2011/12 — Urban: $7,090; New Territories: $6,431. Monthly fee paid by resident: $1,707*

Government monthly subsidies per place in 2011/12 — Urban: $6000; New Territories: $5,445. Monthly fee paid by resident: $1,603

2.7 As at the end of November 2011, 73.8% (or 28,802) of the residents of private RCHEs were Comprehensive Social Security Assistance recipients.

REVIEW OF MONITORING MECHANISM

2.8 In February 2007, Government's Efficiency Unit ("EU") completed a study on SWD's mechanism for monitoring RCHEs and made 31 recommendations under the following five major categories:

(1) promotion of market efficiency and user participation;

(2) acceleration of the processing of licence applications;

(3) monitoring (inspections and deterrence against non-compliance);

(4) prosecution and other statutory measures; and

(5) enforcement intelligence and information technology support.

2.9 To date, SWD is still working on the enhancement of its computer system and the revision of the Code of Practice. The rest of the recommendations have been implemented.

3

INSPECTION AND ENFORCEMENT

RECOMMENDATIONS BY EU

3.1 EU has recommended ways to improve the management, workflow and division of work of LORCHE's inspectorate teams so as to enhance the effectiveness of their inspections of RCHEs (**para. 2.8**). These included a risk-based inspection approach to further increase the linkage between the frequency of inspections and the risk profile of individual homes, as well as extending the scope and timing of non-office hours inspections.

3.2 EU has also recommended ways to further deter non-compliance by RCHEs, including means to enhance home operators' awareness of all the consequences of committing an offence or non-compliance with licensing requirements, stepping up prosecution, making more use of the power to shorten the validity period of the licence, or to impose additional conditions on homes with poor records.

INSPECTION TARGETS

3.3. LORCHE has four inspectorate teams for monitoring different aspects of RCHEs:

(1) Social Work Inspectorate Team ("SWIT");
(2) Health Inspectorate Team ("HIT");

(3) Fire Safety Inspectorate Team ("FSIT"); and
(4) Building Safety Inspectorate Team ("BSIT").

3.4 In response to EU's recommendations, SWD has deployed more inspectorate resources to monitoring private homes — through rationalising the division of work between SWIT and HIT to eliminate duplication of work, as well as reducing the number of inspections for the "less risky" subsidised homes. In comparison with private RCHEs, the subsidised homes (including subvented and contract homes) have service agreements with SWD, receive direct subsidy from SWD, provide a level of service higher than the licensing requirements, are usually located on purpose-built premises or in public housing estates, and are also monitored by other SWD sections. The revised inspection targets for private RCHEs and the corresponding rates of meeting the targets in 2009/10 are shown in **Table 3** below.

Table 3. Inspections of 584 Private RCHEs in 2009/10

Inspectorate Team	Annual target of number of routine inspections per RCHE	Total number of inspections conducted	Rate of meeting target
SWIT	3	1,581	90%
HIT	4	1,565	67%
FSIT	1	630	108%
BSIT	1	613	105%

3.5 SWD has explained to this Office that in 2009/10, both SWIT and HIT were understaffed. The two teams' overall achievements were, therefore, inevitably affected. Nevertheless, subsequent to EU's review, SWD has adopted since 2007 a risk management approach , under which once any significant irregularity in an RCHE is detected, its risk level would be adjusted accordingly, and subsequent inspections would be conducted until the irregularity has been rectified. In other words, the more risky an RCHE, the more subsequent inspections it would receive, although such inspections are not counted as routine inspections.

NON-OFFICE HOURS INSPECTIONS

3.6 Prior to EU's review, inspections of private RCHEs during non-office hours focused on bathing and drug administration only and were carried out in the early morning once every year for all homes. EU recommended extending the non-office hours inspection to other times to monitor other high-risk areas, including illegal employment of workers, fire exits, application of physical restraint and food handling.

3.7 According to SWD, it has fully implemented the recommendation since April 2008. SWIT and HIT inspectors conduct inspections outside LORCHE's office hours, which are from 8:45a.m. to 6p.m., Mondays to Fridays, except public holidays. The related figures are shown in **Table 4** below.

Table 4. Number of Non-Office Hours Inspections conducted

Year / Inspectorate Team	2009/10	2010/11	Average proportion of non-office hours inspections
SWIT	215	290	12.4%
HIT	107	77	4.8%

3.8 In justifying the small proportion of non-office hours inspections, SWD indicated that most of the care arrangements (such as preparation and serving of meals, management and distribution of drugs, arrangement of medical consultation or social activities) for RCHE residents are carried out during daytime, which mostly fall within office hours. Non-office hours inspections are conducted on a need basis (e.g. for checking staff attendance overnight) and on those RCHEs with higher risk or more complaints. SWD emphasised that inspections are conducted **unannounced**, regardless the time of the inspections, which is an effective means of identifying irregularities.

DIRECTIVES ON REMEDIAL MEASURES

3.9 EU has recommended that SWD enhance enforcement actions, particularly on non-compliance relating to health care service. In response, the Department has adopted a harder line to deal with RCHEs which have repeatedly failed to comply with the requirements over staffing or standard of service. In recent

years, more warning letters were issued under section 19 of the Ordinance to pave the way for prosecution. Invoking that section, DSW may give a directive in writing to a non-compliant RCHE, requiring remedial measures to be taken within a specified period. Failure to comply with the directive is a criminal offence.

Table 5. Enforcement Actions Taken

Year	Number of Written Directives issued under s.19 of the Ordinance (Note 1)	Number of RCHEs Successfully Prosecuted (Note 2)
2007/08	5	4
2008/09	5	6
2009/10	14	2
2010/11	10	12

Note 1 *All related to private RCHEs, except one in 2010/11 being a contract home*

Note 2 *All related to private RCHEs, except two prosecutions in 2010/11 relating to an RCHE operating without a valid licence*

3.10 According to SWD's Guidelines on Enforcement Action for inspectors, items of non-compliance that warrant issuance of directives under section 19 include:

(1) posing immediate danger or serious hazard to residents or others (e.g. improper use of physical restraint, poor drug management and administration, unhygienic living environment, building and fire safety hazard);

(2) elderly abuse, inhumane treatment or grave spoiling of residents' dignity and privacy; and

(3) poor or false records on management, health care or drug use.

Normally, one month would be given for the RCHE concerned to make rectification, depending on individual circumstances and the nature or severity of non-compliance. The inspector should conduct a follow-up inspection shortly after the due date for rectification. Prosecution action will be taken against the RCHE for failure to comply with the directive, if found in the follow-up inspection.

4

PROVISION OF INFORMATION

INFORMATION ON NON-COMPLIANT HOMES

Publication of Conviction Records

4.1 Subsequent to a series of complaints and media reports about the poor service quality of RCHEs and their ill treatment to residents, SWD decided to make public the names of those RCHEs with convictions under the Ordinance. Starting from 15 December 2005, information on the conviction of each home (name, address, offence and date of conviction) was posted on SWD website for six months. Such publication aimed at strengthening the deterrent effect and enhancing public accountability and information transparency.

4.2 SWD considered the publication of the information for a six-month duration reasonable, striking a balance between the interests of the RCHE operators and the public.

4.3 The information is posted on the "*What's New*" page of SWD website, but cannot be found on the "*Services for Elders*" or the "*Press Releases*" pages of the website (see the Homepage and Site Map showing a directory of the web pages concerned at **Annex I**). Furthermore, the "*What's New*" page only shows the news of the current month. An archive of "*What's New*" can only be searched by selecting "month and year", which merely displays the "new information" (mostly being notices or announcements related to various funds or schemes) of that particular month (see **Annex II**).

Posting of Licences

4.4 Besides taking prosecution action, LORCHE may also impose special conditions in a licence and other penalties (such as shortening the validity period of the licence) on RCHEs having poor compliance records. According to LORCHE guidelines, a new licence issued to a private RCHE is normally valid for one year. Subject to the RCHE's satisfactory performance, the first renewal would normally be a further term of 18 months, and subsequent renewals for two years. An RCHE having poor compliance records may have its licence renewed for shorter periods.

4.5 Out of the 400 licences renewed for private RCHEs in 2009/10, 86 had special conditions imposed or their validity period shortened. In 2011, out of the 333 licences renewed for private RCHEs, 150 had their validity period shortened or kept unchanged.

4.6 EU has recommended, under the category of "promotion of market efficiency", posting on SWD website of all RCHE licences, which should contain licence conditions related to previous non-compliance, if any. To facilitate users' informed choices of RCHEs, EU considered that SWD should disclose all performance-related information about the RCHEs as far as possible.

4.7 In response, SWD started posting all RCHE licences from November 2007. A sample licence is at **Annex III**.

4.8 As at mid-November 2011, 64 of the 584 licences of private RCHEs posted on SWD website contain "conditions", but all related to building or fire safety, rather than performance-related information. (The public may not be aware that the validity period of a licence is performance-related.) The most common "conditions" imposed (see **Annex IV** for the original wording, which is in Chinese only) are as follows:

- To submit a copy of the "Certificate of Fire Service Installations or Equipment" within three months from the date of issue of this licence.

- Maximum capacity per floor at any time is xx persons, including residents, staff and visitors.

- To engage an authorised person or structural engineer to annually examine the unauthorised building works item at xxx and submit a report certifying its safety.

4.9 EU has recommended SWD to disclose RCHEs' records of non-compliance. This recommendation has not been implemented. SWD explained that as not all cases of non-compliance have been tried in court or a tribunal, disclosure may be subject to dispute. Nevertheless, if an act of non-compliance is not rectified, SWD will issue warning letters under section 19 of the Ordinance, and prosecution action may be taken; if an RCHE is convicted, the conviction record will be published on SWD's website.

INFORMATION FOR CHOOSING RCHE

4.10 To facilitate the public's choice of private RCHEs, SWD has provided on its website "*Tips for Choosing RCHE*", which is also available in printed format at various elderly services units of SWD at district level. The *Tips* offer general advice on choosing an RCHE, based on observations in site visits, comments by residents and their families, and printed materials of individual homes about their services, charges and meals provided. The *Tips* also list 35 items for attention, under eight categories: licensing, location, environment and facilities, catering, staff, charges, personal care and added-value services.

4.11 SWD has also posted on its website a brief introduction of every subvented, contract or self-financing home (sample in **Annex V**), giving key information regarding its services and facilities, such as religious background, staffing level, social/recreational activities, floor area, types and number of beds or rooms. However, **no** such introduction is available in respect of private homes – not even for homes providing subsidised places under EBPS.

4.12 Members of the public can approach individual homes to assess their quality. They can also contact social workers at various service units, who will help assess their elders' welfare needs and eligibility, and offer information and advice on choice of RCHEs.

ACCREDITATION OF RCHE

4.13 In the past decade, a few accreditation systems for RCHEs have been launched by independent or non-profit-making bodies in the health care, elderly care or accreditation fields. Such accreditation, if conducted impartially and covering a substantial proportion of homes, can be very useful to consumers in making informed choices of homes.

4.14 At present, participation of RCHEs in such accreditation schemes is voluntary. Since 2006, as an incentive, SWD gives additional marks to accredited private homes when processing their application for participation in EBPS. Nevertheless, the participation rate is still low. For example, for the Residential Aged Care Accreditation Scheme launched by the Hong Kong Association of Gerontology in early 2005, only 46 RCHEs were on its accreditation list as at 30 June 2011. Among them, only 25 are private homes (or 4.3% of 587 private RCHEs), including 18 under EBPS.

4.15 However, information on such schemes, including any prevailing lists of accredited RCHEs, is not provided on SWD website or its printed materials.

LATEST DEVELOPMENTS

Publication of Conviction Records

4.16 In September 2011, SWD decided to extend the posting period of conviction records from six months (**para. 4.1**) to two years, having regard to the practices of other public organisations[3] and considering that the longest licence term for private RCHEs is two years. This new arrangement has already been implemented.

[3] *Examples of similar posting include: (1) The Mandatory Provident Fund Schemes Authority's Non-Compliant Employer and Officer Records: records removed after 5 years; (2) Consumer Council's Convictions for Selling Counterfeit Drugs: no time limit on posting; (3) The Securities and Futures Commission: posting information on all enforcement actions taken since January 1997.*

More Website Information

4.17 To facilitate access to information on RCHEs, SWD has agreed to revamp its website with the following improvements:

(i) transferring conviction records from "*What's New*" to a new section "*Record of RCHEs Successfully Prosecuted*" on the web page "*Services for the Elderly*";

(ii) transferring "*Tips for Choosing RCHE*" from the web page "*Licensing*" to a new section on the web page "*Services for the Elderly*"; and

(iii) providing additional information on fees, religious background, residents' gender and diet provided by each private RCHE.

Accreditation

4.18 As regards accreditation of RCHEs, the Innovation and Technology Commission of Government has recently set up a Task Force for Certification of RCHEs, aiming to develop an "accredited certification scheme" for RCHEs based on international recognised standards. With such a scheme in place, operators of RCHE accreditation schemes will themselves be subject to accreditation. The Task Force, with SWD as a member, has held its first meeting in August 2011.

4.19 SWD has also agreed to provide on its website information on RCHEs participating in accreditation schemes.

5

OBSERVATIONS AND COMMENTS

REVIEW OF REGULATORY TOOLS

5.1 The Ordinance, which regulates RCHEs, has been in effect since 1995. There has since been no significant amendment to the Ordinance or its sub-legislations. The current Code of Practice (the fifth edition since 1986) has not been revised since its publication in October 2005 (**paras. 2.1-2.2**). It is noted that SWD can issue, and have issued, circular letters or guidelines on licensing issues or good practices for RCHEs to follow, in between major reviews of the Code. However, with social developments and the ever-changing expectations of the community regarding care for the elderly, we consider it necessary for the Department to conduct timely and regular reviews of both the legislation and the Code to cover policy changes and update administrative practices. Circular letters and guidelines can at best serve a temporary or *ad hoc* purpose.

5.2 As a result of such inertness, the minimum manpower requirements for RCHEs stated in the regulation and the Code have remained unchanged for 16 years. Since 1998, SWD has replaced the Bought Place Scheme by EBPS, buying places from private RCHEs. As shown in **Table 2** in **para. 2.6**, the space and staffing requirements for those subsidised places are well above the statutory minimum requirements . If the EBPS requirements are considered by SWD as workable standards, there is no reason why the Department should not review the outdated statutory minimum requirements.

INSPECTION TARGETS

5.3 The total number of inspections conducted by the four inspectorate teams of LORCHE, as shown in **Table 3** in **para. 3.4**, included not only "routine inspections", but also "re-inspections" for follow-up on rectification of irregularities detected in prior inspections. The figures are not useful in assessing whether the teams have met their pre-set annual targets for routine inspections.

5.4 LORCHE did not have breakdown data for these two types of inspections. Upon our request, LORCHE conducted a 10% sample check of the relevant files for data relating to SWIT and HIT. The results are shown in **Table 6** below.

Table 6. Sample Survey on 10% of Files relating to Inspections of Private RCHEs in 2009/10

Inspectorate Team	Annual target of number of routine inspections per RCHE	Rate of meeting target (after deducting the number of re-inspections)		Rate of meeting target (without deducting re-inspections) *Cf. Table 3*
SWIT	3	79%		90%
HIT	4	63%		67%

5.5 It can be seen that the rates of meeting the targets of routine inspections have in fact been over-stated. It is inappropriate to count the number of re-inspections towards the total number of routine inspections for all private RCHEs, thus inflating the latter figure and creating an illusion that all private RCHEs are receiving a substantial number of inspections. Aggregate and average figures can be misleading. Surely, having re-inspected a problematic private RCHE many times on top of the routine inspections should not mean that LORCHE can carry out fewer inspections in respect of other private RCHEs. For proper monitoring of the performance of private RCHEs, we consider it essential for LORCHE to inspect **each and every** one of them (routine inspections or re-inspections) at frequencies no lower than those specified in the Office's annual targets of routine inspections.

5.6 We hope that with the addition of three Registered Nurse posts in 2011/12, LORCHE would be able to achieve this goal.

NON-OFFICE HOURS INSPECTIONS

5.7 Although LORCHE claimed to have implemented EU's recommendation on extending non-office hours inspections, the related statistics reflect that it has in fact taken retrograde steps. Prior to 2008, early morning (before 8:45a.m.) inspection was conducted once a year for all homes (though focusing on bathing and drug administration only). However, LORCHE has failed to achieve even the old target in recent years. As shown in **Table 4** in **para. 3.7**, only 322 (i.e. 215 + 107) and 367 (i.e. 290 + 77) non-office hours inspections were conducted in 2009/10 and 2010/11 respectively. Even assuming that all those inspections were conducted on private RCHEs, the above figures reveal that on average, only about 55% to 60% of the 584-587 private RCHEs were inspected once annually outside office hours.

5.8 There is nothing wrong for a considerable proportion of inspections to be conducted during office hours. There is also no challenge to the effectiveness of LORCHE conducting non-office hours inspections based on need and a risk management approach (**para. 3.8**). Nevertheless, reducing the frequency of non-office hours inspections to less than once a year could hardly be justified. Re-establishing targets and consolidating criteria for conducting such inspections are deemed necessary for proper monitoring of private RCHEs.

DIRECTIVES ON REMEDIAL MEASURES

5.9 Prompt action against non-compliance of RCHEs is crucial to rectification of irregularities and curbing of deterioration of care or safety for residents. SWD's Guidelines on Enforcement Action rightly require inspectors to conduct follow-through inspection shortly after the due date for rectification (**para. 3.10**).

5.10 We have studied the 24 cases with directives issued under section 19 of the Ordinance in 2009/10 and 2010/11 (see **Table 5** in **para. 3.9**). In eight of the cases, follow-up inspections were in fact conducted a long time (up to ten weeks)

after the due date. We find such delays unacceptable, especially as some of the RCHEs had previous records of non-compliance.

PUBLICATION OF CONVICTION RECORDS AND LICENCES

5.11 Contrary to what SWD claimed, the ways it posted RCHEs' licences and conviction records (**para. 4.1**) served little in enhancing public accountability, information transparency and deterrence of non-compliance.

5.12 Conviction records were posted on SWD website for only six months. Thereafter, such records could not be found. Worse, the public was not informed of such a short posting period. Besides, the layout of the SWD website made it nearly impossible for an average web user to locate the conviction records (**paras. 4.2 – 4.3**). We appreciate SWD's recent decision to extend the posting period to two years (**para. 4.16**) in response to our suggestion.

5.13 SWD's practice of posting the licence of each and every RCHE on its website enables the public to know whether a particular home is licensed and to get basic information, such as the maximum capacity and level of care of the home, and the name and address of the licensee (**Annex III**). While DSW can penalise a non-compliant home by shortening the validity period of its renewed licence or deter further non-compliance by imposing special licensing conditions, there is no clue for the public to take such "hints". Although the validity period of a licence and the conditions (if any) are stated in the licence posted, it is impossible for a layman to tell whether, or in what way, such information relates to track records of non-compliance. In fact, all the 64 licences that we have studied contain "conditions" relating to fire or structural safety only. None of them reflects any performance-related track records (**para. 4.8**). In response to our observations, SWD has agreed to show a comparison of the validity periods of each RCHE's last and current licences and its implications.

INFORMATION FOR CHOOSING RCHE

5.14 Other than the licences, no information on individual private homes (even those with subsidised places under EBPS) could be found on SWD website. The arrangement is quite different from that for other categories of RCHEs. For subvented, contract and self-financing homes (regardless of whether their places are

subsidised or non-subsidised), a brief introduction of their services and facilities is given in a standard format on SWD website (**para. 4.11 and Annex V**). Each of such introduction carries a disclaimer that the information is provided by the RCHE concerned and for reference only, and that only the basic information in Part I has been verified by SWD. Elders and their families are also reminded to visit the home to observe for themselves, since the posted information may change from time to time (bottom of **Annex V**). With the protection afforded by a disclaimer like that, SWD should have no problem in providing on its website a similar introduction of each of the private RCHEs. In response to our observations, SWD has agreed to add to its website more information on private RCHEs similar to that provided for subvented, contract or self-financing homes.

5.15 Of course, the public can, as SWD suggested, approach individual homes to obtain information, or contact social workers for assistance (**para. 4.12**). However, such avenues, though useful as supplements, do not obviate the need for comprehensive information concerning the RCHEs on SWD website for easy access by the public.

5.16 By the same token, SWD should consider providing more information to the public on (or, at least, links to) the accreditation schemes for RCHEs (**paras. 4.13-4.15**). The rate of RCHEs' participation in such schemes is low at present, but with more promotional efforts by SWD as well as the operators of the schemes, public demand for RCHEs' accreditation would rise and the rate of participation is likely to increase.

LATEST DEVELOPMENTS

5.17 SWD's recent decisions to extend the period of posting conviction records from six months to two years (**para. 4.16**) and to revamp its website with more information under "*Services for the Elderly*" (**para. 4.17**) are steps in the right direction. Nevertheless, SWD should regularly review its means of providing information, including these latest moves in the pipeline, to help the public to make informed choices of RCHEs in the best possible way.

5.18 With the involvement of SWD in the preparation for the development of an "accredited certification scheme" (**para. 4.18**), one can expect an enhancement of accreditation programmes for assuring the quality of accredited RCHEs.

5.19 In this connection, SWD should also consider providing more incentives to RCHEs of various types to obtain accreditation, other than just giving additional marks to them for EBPS applications (**para. 4.14**), as part of its promotional efforts as suggested above (**para. 5.16**). In response to this, SWD has agreed to provide on its website information on RCHEs participating in accreditation schemes.

6

RECOMMENDATIONS

6.1 The Administration has been increasing the provision of subsidised residential care places for the elderly in recent years. However, our society would always have demand for private RCHEs — for elderly people who cannot stay with their families for personal, health or other reasons and are still queuing for subsidised places. SWD, being the licensing body for RCHEs, has the responsibility to ensure proper monitoring of private RCHEs at all times.

RECOMMENDATIONS

6.2 Based on our findings and observations, The Ombudsman makes the following recommendations to DSW:

(1) to conduct timely and regular reviews of the relevant legislation and Code of Practice, in particular the statutory minimum requirements in respect of RCHEs (**paras. 5.1 – 5.2**);

(2) to inspect each and every private RCHE at frequencies no lower than those specified in LORCHE's annual targets of routine inspections (**para. 5.5**);

(3) to increase the proportion and number of inspections outside office hours, and to re-establish targets and consolidate criteria for such inspections (**paras. 5.7 – 5.8**);

(4) to ensure that timely follow-up actions are taken against RCHEs with irregularities, especially those RCHEs already issued with written notices under s. 19 of the Ordinance (**paras. 5.9 – 5.10**);

(5) to facilitate the public's selection of RCHEs through:

(a) providing more information on individual homes, particularly those in the private sector;

(b) ensuring user-friendly access to information on the RCHEs; and

(c) exploring ways to disclose more information about the performance of individual homes, including their non-compliance records (paras. 5.11 – 5.17); and

(6) to promote accreditation of RCHEs by, inter alia, providing them with more incentives for participating in accreditation schemes (**paras. 5.16 and 5.19**).

FINAL REMARKS

6.3 The Ombudsman is grateful for SWD's positive response to the above recommendations. We will monitor their implementation.

Office of The Ombudsman
Ref. OMB/DI/147
March 2012

ANNEXES

Annex I
(paras. 4.3 & 5.12)

Social Welfare Department
The Government of the Hong Kong Special Administrative Region

HONG KONG

GOVHK香港政府一站通 | TEXT ONLY | 繁體版 | 简体版

SEARCH | SITE MAP

Launching of the Seventh Round Application for

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Text-only News ticker

Core Welfare Services

Social Security
The overall objective of social security in Hong Kong is to provide for the basic and special needs of the members of the community who are in need of financial or material assistance.

more

Family and Child Welfare Services
To preserve and strengthen the family as a unit, to develop caring interpersonal relationships, to enable individuals and family members to prevent personal and family problems and to provide suitable services to meet needs that cannot be adequately met from within the family.

more

Medical Social Services
Medical social workers (MSWs) are stationed in public hospitals and specialist out-patient clinics who play an important role in linking up the medical and social services to facilitate patients' recovery and rehabilitation in the community.

more

Services for People with Disabilities
Aims to develop the physical, mental and social capabilities of people with disabilities, and to ensure their full participation and enjoying equal rights with a view to promoting their integration into the community.

more

☆ Services for Elders
To enable elderly people to live in dignity and to provide necessary support to them to promote their sense of belonging, sense of security and sense of worthiness.

more

Services for Young People
Helping young people to become responsible and contributing members of society through a wide range of programmes and activities.

more

Services for Offenders
Helping offenders reintegrate into the community as law-abiding citizens through community-based and residential services.

more

2011-12 Policy Address

Community Care Fund Allowance for New Arrivals

news.gov.hk 政府新聞網

1823

Internet Memorial Service & Scattering of Cremated Ashes

SCHEME $6,000

Report on Long-term Social Welfare Planning in Hong Kong by Social Welfare Advisory Committee

Productivity Assessment for Persons with Disabilities under the Statutory Minimum Wage Regime

Hotline Service
2343 2255

District Programme/ Activities

--Select District--

Mass Programme

Redeem DVD with 4 inspiring dramas showing working abilities of people with disabilities

關愛基金

社署署長呼籲支持義工運動

家庭實況劇《一念之間》徵文比賽得獎作品集

老有所為

少數族裔服務資訊

Support for Victims of Child Abuse, Spouse / Cohabitant Battering and Sexual Violence

攜手扶弱基金 Partnership Fund for the Disadvantaged

Volunteer Movement

Family Life Education Resource Centre

CYBER Project

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  - Social Security
    - Introduction and objectives
    - Highlight of Initiatives
    - Comprehensive Social Security Assistance (CSSA) Scheme
    - Support for Self-reliance (SFS) Scheme
    - Portable Comprehensive Social Security Assistance (PCSSA) Scheme
    - Social Security Allowance Scheme
    - Criminal and Law Enforcement Injuries Compensation Scheme
    - Traffic Accident Victims Assistance Scheme
    - Emergency Relief
    - Special Investigation Section
    - Reporting Suspected Fraud and Abuse
    - Social Security Appeal Board
    - Statistics and Figures on Social Security
    - Addresses, Telephone Numbers and Opening Hours of Social Security Field Units
  - Family and Child Welfare
    - Introduction and objectives

- List of Services
- Procedural Guidelines

- Clinical Psychological Services
  - Introduction and Service Description
  - Application Procedures, Fees and Charges
  - Target Group and Service Boundary
  - Publication
  - List of Clinical Psychology Units and Operating Hours
  - Stress Management after Critical Incidents
  - Talk Series and Training Materials
- Medical Social Services
  - Service Objectives
  - Highlight of Initiatives
  - Scope of Services
  - How to Apply/Enquiries
  - Medical Social Services Units
  - Medical Fee Waiving Mechanism
  - Guardianship for Mentally Incapacitated
  - Bookshelf/Forms Rack
  - Your Voices
  - Related Funds
  - Prevention of Avian Influenza in Social Welfare Service Units
  - Leaflet of Medical Social Services
- Rehabilitation Services
  - Introduction and objectives
  - List of Services
  - Admission to Day/ Residential Care Services
  - Licensing Scheme for Residential Care Homes for Persons with Disabilities (RCHDs)
  - Voluntary Registration Scheme for Private Residential Care Homes for Persons with Disabilities
  - Health Protection for Rehabilitation Services
  - Good Practice Guide for Handling Mentally Handicapped / Mentally Ill Adult Abuse Cases
  - Transport for Persons with Disabilities
  - Practice Guides
  - Bookshelf/ Forms Rack
  - Your Voices
  - Additional and Planned Places of Rehabilitation Services
- ☆ <u>Services for the Elderly</u>
  - Introduction and Objectives
  - Highlight of Initiatives
  - Central Waiting List for Subsidised Long Term Care Services
  - Standardised Care Need Assessment Mechanism for Elderly Services
  - Community Support Services for the Elderly
  - Residential Care Services for the Elderly
  - Contract Management
  - Downloads / Publications
  - Your Support and Contributions
- Services for Young People
  - Introduction and objectives
  - Highlight of Initiatives
  - Centre Services
  - Fee Waiving Subsidy Scheme under After School Care Programme (ASCP)
  - School Social Work Service

<u>Note: Highlighted by this Office</u>

Annex II
(paras. 4.3 & 5.12)

Social Welfare Department
The Government of the Hong Kong Special Administrative Region

HONG KONG

GovHK香港政府一站通 TEXT ONLY 繁體版 简体版

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What's New

January Month 2011 Year Search

Please select the month and year of which the information of "what's new" you are going to search for.

Date	Title
	Downloading of the acrobat documents for reading and printing can be done through the use of the Adobe(R) acrobat(R) reader software which is available free at the Adobe Systems Inc. Website. Get Adobe Reader

Sep 2011 — Announcement of the Result of Invitation of Proposals to Operate the Neighbourhood Support Child Care Project

The Social Welfare Department (SWD) has earlier invited bona fide charitable organisations to submit proposals to operate the Neighbourhood Support Child Care Project (the "NSCCP"). SWD received a total of 24 proposals. Upon the recommendation of the Vetting Committee, SWD has selected 14 organisations to operate the NSCCP in 17 District Council districts. The list of operating organisations and their respective serving districts can be download here -

List of NSCCP Operating Organisations

Sep 2011 — Announcement of the list of residential care homes for the elderly successfully prosecuted by the Licensing Office of Residential Care Homes for the Elderly of SWD

Because of breaching the Residential Care Homes (Elderly Persons) Ordinance and/or Residential Care Homes (Elderly Persons) Regulation, the following residential care home for the elderly was successfully prosecuted by the Licensing Office of Residential Care Homes for the Elderly of the Department with details as follows :

1)	Home Name :	Man Fook Elderly Home
	Home Address :	G/F - 1/F, No. 3 and G/F - 2/F, No. 6, South Yeuk, Siu Lek Yuen Village, Shatin, New Territories
	Offences :	Breaching on Sections 11(1) & 36(1) of the Residential Care Homes (Elderly Persons) Regulation Cap. 459A Failed to employ a person as ancillary worker in the manner as indicated in Section 11(1) Schedule 1 of the Residential Care Homes (Elderly Persons) Regulation, Cap. 459A
	Date of Conviction :	4 August 2011

Sep 2011 — New Measures to Enhance the Monitoring of General Charitable Fund-raising Activities in Public Places

To enhance the monitoring of general charitable fund-raising activities in public places under the purview of the Social Welfare Department, six new measures were implemented on 1 August 2011.

Please click here for details.

Sep 2011 — Flag Day Organisers from April 2011 to March 2012

The list of Flag Day Organisers from April 2011 to March 2012 can be downloaded here.

Sep 2011 — Charitable Fund-raising Activities for September 2011 and October 2011

The list of Charitable Fund-raising Activities in public places in September 2011 issued with Public Subscription Permit (PSP) can be downloaded here.

The list of Charitable Fund-raising Activities in public places in October 2011 issued with Public Subscription Permit (PSP) can be downloaded here.

RESIDENTIAL CARE HOMES (ELDERLY PERSONS) ORDINANCE
安 老 院 條 例
(Chapter 459)
（香港法例第459章）

Annex III
(paras. 4.7 & 5.13)

Licence Number
牌照編號 ____________

Licence of Residential Care Home for the Elderly
安老院牌照

1. This licence is issued under Part IV, Section ________, of the Residential Care Homes (Elderly Persons) Ordinance in respect of the undermentioned residential care home –
茲證明下述安老院已根據《安老院條例》第IV部第________條獲發牌照－

2. Particulars of residential care home –
安老院資料－
   (a) Name (in English) 名稱（英文）____________ Name (in Chinese) 名稱（中文）____________
   (b) (i) Address of home 安老院地址 ____________
   (ii) Premises where home may be operated 可開設安老院的處所 ____________

   as more particularly shown and described on Plan Number ________ deposited with and approved by me.
   其詳情見於圖則第________號，該圖則現存本人處，並經本人批准。

   (c) Maximum number of persons that the residential care home is capable of accommodating –
   安老院可收納的最多人數 ________

3. Particulars of person / company to whom / which this licence is issued in respect of the above residential care home
獲發上述安老院牌照人士／公司的資料－
   (a) Name/Company (in English) 姓名／公司名稱（英文）____________ Name/Company (in Chinese) 姓名／公司名稱（中文）____________
   (b) Address 地址 ____________

4. The person/company named in paragraph 3 above is authorized to operate, keep, manage or otherwise have control of a residential care home of the following type : ____________.
第3段所述的人士／公司已獲批准經營、料理、管理或以其他方式控制一所屬____________種類的安老院。

5. This licence is valid for ______ months effective from the date of issue to cover the period from ____________ to ____________ inclusive.
本牌照由簽發日期起生效，有效期為________個月，由 ____________ 至 ____________止，首尾兩天計算在內。

6. This licence is issued subject to the following conditions –
本牌照附有下列條件－

____
____
____
____
____
____

7. This licence may be cancelled or suspended in exercise of the powers vested in me under Section 10 of the Residential Care Homes (Elderly Persons) Ordinance in the event of a breach of or a failure to perform any of the conditions set out in paragraph 6 above.
倘若有關安老院違反或未能履行以上第6段所列的任何條件，本人可行使安老院條例第10條賦予本人的權力，撤銷或暫時吊銷本牌照。

Hong Kong ____________
____________於香港

(Signed)
（簽署）____________
Director of Social Welfare
社會福利署署長

WARNING
警 告

Licensing of a residential care home does not release the operator or any other person from compliance with any requirement of the Buildings Ordinance or any other Ordinance relating to the premises, nor does it in any way affect or modify any agreement or covenant relating to any premises in which the residential care home is operated.
安老院獲發給牌照，並不表示其經營者或任何其他人士毋須遵守《建築物條例》或任何其他與該處所有關的條例的規定，亦不會對與開設該安老院的處所有關的任何合約或租約條款有任何影響或修改。

SWD 605 (Revised)

RESIDENTIAL CARE HOMES (ELDERLY PERSONS) ORDINANCE
安　　老　　院　　條　　例
(Chapter 459)
（香港法例第459章）

Licence Number
牌照編號________________

Licence of Residential Care Home for the Elderly (Continuation)
安 老 院 牌 照（續頁）

6. This licence is issued subject to the following conditions —
本牌照附有下列條件—
(Continued from front page 續前頁)

Hong Kong ____________________
____________________於香港

(Signed)
（簽署）______________________________
Director of Social Welfare
社會福利署署長

WARNING
警　告

Licensing of a residential care home does not release the operator or any other person from compliance with any requirement of the Buildings Ordinance or any other Ordinance relating to the premises, nor does it in any way affect or modify any agreement or covenant relating to any premises in which the residential care home is operated.
安老院獲發給牌照，並不表示其經營者或任何其他人士毋須遵守《建築物條例》或任何其他與該處所有關的條例的規定，亦不會對與開設該安老院的處所有關的任何合約或租約條款有任何影響或修改。

SWD 605A

Annex IV
(paras. 4.8 & 5.13)

RESIDENTIAL CARE HOMES (ELDERLY PERSONS) ORDINANCE
安老院條例
(Chapter 459)
（香港法例第 459 章）

Licence of Residential Care Home for the Elderly
安 老 院 牌 照

Examples of some common "conditions" (original wording in Chinese only):

牌照附有條件的常見例子（原文只具中文）

6. This licence is issued subject to the following conditions
本牌照附有下列條件

（一） 安全及防火

(a) 上述安老院須於本牌照簽發日期起計的三個月內，就消防喉轆系統，提供「消防裝置及設備証書」(FS251)的副本，以證明前述系統正常。

（一） 建築物及住宿設備

(a) 位於上述安老院的每一樓層，在任何時候可容納的人數都不能超過 23 人，包括住客及職員。

(a) 就接連地下及一字樓的電梯平台，須由認可人士或結構工程師提交年檢報告以確保電梯平台的結構安全。

(a) 有關架設於地下及 1 字樓之間樓梯間上的石屎僭建樓面板，上述安老院須遵從下列條件

(i) 須聘請註冊結構工程師每年檢查該僭建樓面板的結構安全，並向本署提交有關檢查報告。

(ii) 倘若發現上述僭建物或／及建築物有任何危機，須立即在註冊結構工程師監督下進行臨時補救措施，以防止發生倒塌意外，並須根據已批准的圖則進行修復。

非牟利自負盈虧安老院的簡介

第一部份

(一) 安老院名稱： XXXX 安老院

(二) 地址： XXXX

(三) 所屬地區： ______

(四) 查詢電話： ______ 傳真號碼： ______

(五) 安老院名額： 41 (須與下述 5.1 所填報的宿位數目的總和相同)

5.1 包括: - 自顧部
21 安老/中度照顧
20 護理安老部

(六) 開辦日期： xxxx 年 xx 月

第二部份

(七) 服務宗旨及目標: 本著基督仁愛精神，為長者安排各項康樂及社會教育性的活動，使他們建立融洽的人際關係，成為教會和社會的積極份子，安享晚年。在康復期中，長者可回家重度家庭生活，或仍留居院中；每逢慶節、假日，亦可回家團聚。

(八) 宗教背景: 天主教

(九) 服務對象: 凡年滿六十歲或以上，無依無靠者，或家人無法照顧的長者，均可入住本院。

(十) 人手: 全院職員共 13 人，包括主管 1 名、註冊護士 1 名、保健員 2 名、護理員 4 名及助理員 5 名。

(十一) 服務範圍:

護理及起居照顧(請詳列): 每天24小時有保健員及護理員提供個人起居照顧，服務包括：特別膳食、沐浴、個人衛生、專人陪同覆診、測試血糖、量血壓及餵食等服務。

膳食(請詳列): 提供由營養師編訂的均衡營養餐單，包括早、午、下午茶座、晚、夜點(自由取用糕點)共五餐。此外，亦可提供低糖、低鹽、流質及碎肉飯等。

社交及康樂活動(請詳列): 每天舉行健體運動，如：六通拳、元極舞等；愛心茶座，包括報章摘要、聖言分享、唱歌等；其他機構到訪活動，每月平均有五次；間中也有戶外康樂活動，如：遊車河、聚餐、參觀等。

醫療(請詳列): (1) 每月有兩位西醫巡房；(2) 每年會替長者進行體格檢查一次；(3) 提供醫療講座；(4) 設有急救箱、血糖機、血壓計，並有專人負責派發葯物給長者服用。

康復(請詳列): 設有運動器材、輛椅、助行器等，足夠個人或小組每天做康復運動之用。行動不便者，有樓梯車載上、落石級。

其它服務:
(1) 代行走不便者購物。
(2) 協助與家人溝通。
(3) 替無依者辦理身後事。
(4) 行動不便者，有樓梯車載上、落石級。

(十二) 面積及床位數目: 面積: 456.7 平方米

男床位: - 個，女床位: 41 個，共 41 個床位

(不包括隔離病房床位 2 個)

房間數目:
☑ 單人房 3 間
☑ 雙人房 2 間
☑ 三人房 5 間
☑ 四人房 5 間

設備: 設有一般安老院的設施，包括寢室、洗手間／浴室、客廳／飯廳、活動區、廚房、茶水間、洗衣房、辦公室等。 除以上的設施外，還有: –

☑ 暖氣設備: ☑寢室 ☑客廳／飯廳
☑ 禮堂
☑ 花園
☑ 院舍設施: ☐位於公共屋邨內 ☑位於特定用途建築物內
☑ 其他 (請註明: 小聖堂。)

(十三) 填寫(或更新資料)日期： xx.yy.2010

有關本院或本機構的資料，亦可瀏覽以下網址 (如適用):

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